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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/064,350 | 07/03/2002 | Timothy R. Hawes | 71234-46 | 9613 |

20915 7590 10/22/2004

MCGARRY BAIR PC
171 MONROE AVENUE, N.W.
SUITE 600
GRAND RAPIDS, MI 49503

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| EXAMINER |
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VANAMAN, FRANK BENNETT

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| ART UNIT | PAPER NUMBER |
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3618

DATE MAILED: 10/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/064,350

Applicant(s)

HAWES, TIMOTHY R.

Examiner

Frank Vanaman

Art Unit

3618

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 September 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: 11,12,21-24,28,29 and 38-51.Claim(s) rejected: 1-7,9,10,13-17,19,20,25-27 and 30-37.

Claim(s) withdrawn from consideration: _____

8. ☒ The drawing correction filed on 27 September 2004 is a) ☒ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____



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Continuation of 5. does NOT place the application in condition for allowance because: Applicant's arguments directed to the combination of Zieske and Laubach are noted but not persuasive. Inasmuch as the issues of (a) reading unclaimed limitations into the claims, (b) bodily incorporation and (c) motivation to combine were treated in substantial detail in the previous office action, they are not further addressed herein. Applicant has noted that the lateral adjustment which would result from the combination of the two references would be wholly undesirable, but has not provided any support in the reference to Zieske which teaches that such a further degree of freedom would be undesirable. Applicant has further argued that there is a strong likelihood of the bracket interfering with the tires of the vehicle in Zieske, but no vehicle tires are actually illustrated in the reference, and it is not at all clear what evidence is being relied upon by applicant to substantiate such an allegation. Applicant has argued that there is no teaching as to how the ordinary practitioner would make the bracket portion adjustable in view of Laubach's telescopic connection, however multiple diameter circular cross sections are notoriously old and well known in the manufacturing arts, and a telescopic arrangement in Zieske would not tax the abilities of one of ordinary skill in the art, particularly in view of Zieske's teaching that the illustrated structural members may be replaced with other members having different cross-sections (see col. 4, lines 8-13). Applicant has argued that the parallel relationship between the two ends of the bracket is quite important to Zieske, but again, has pointed to no evidence in the prior art to support such an allegation, nor has applicant clearly described how the incorporation of the adjustability of Laubach's system would compromise such a parallel arrangement between the two bracket ends. As regards the combination with the Soviet reference, the examiner notes that the rejection should be clear on the location of the spring element. See the previous office action at pages 5-6: "to provide a spring...to mount the fender to the arm..." wherein it should be clear that the spring would be used to mount the fender to the arm, i.e., between the fender and the arm. As regards the spring element itself, applicant has asserted that "the spring is not a vibration coupling connector" (page 15 of the response). It appears as though applicant may have meant to write that the spring is not a vibration decoupling connector. The spring is a vibration decoupling connector to the breadth of the recitation. The degree of coupling or decoupling is not set forth in the specification or the claims, and as such, the spring meets these limitations, in that it has a degree of lag and also a resonant frequency. Vibrations close to the spring's resonant frequency may be well coupled from one end to the other, while vibrations not close to the resonant frequency (or harmonics thereof) will not be well coupled.